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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/004,350	10/25/2001	Ryong Ryoo	HYLEE56.001AUS	3783
20995	7590	05/25/2004	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			HENDRICKSON, STUART L	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 05/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

161004350

Applicant(s)

Ryoo

Examiner

Herbickson

Group Art Unit

1751

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3/3/04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-10, 12-29 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-10, 12-29 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____ ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892 ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948 ☐ Other _____

Office Action Summary

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-10, 16, 18-26, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al., alone or in view of applicant's specification.

Lee teaches on pg. 2177 impregnating a molecular sieve with phenol-formaldehyde, polymerizing, carbonizing and etching the template to create a carbon with uniform mesopores. No difference is seen in the product; compare to specification fig. 7. Lee does not teach the claimed supports, however applicant appears to admit that they are old and known porous inorganic materials. Using them in place of MCM-48 is an obvious expedient to make a carbon material of a desired structure and/or porosity, based upon the structure of the template.

Claims 12, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al., alone or in view of applicant's specification as applied to claims 1-10, 16, 18-26, 29 above, and further in view of Lester et al.

Lee does not teach carbohydrates, however Lester does in column 3-4 and 6 in a similar scheme. Using the compounds of Lester in the process of Lee is an obvious expedient to provide a carbon source for making a carbonaceous body.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al., alone or in view of applicant's specification as applied to claims 1-10, 16, 18-26, 29 above, and further in view of Huckle.

Lee does not teach the particular sources, but Huckle does in column 5. Using the compounds of Huckle in the process of Lee is an obvious expedient to provide a carbon source for making a carbonaceous body. The examiner takes Official notice that the other species are old and known are carbonizable compounds, and thus no patentability is seen in claim 17.

Claims 1-10, 12-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description or enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no description of how one can make the nanotube structure recited. There is no evidence that these structures are present, particularly since decomposition of organic material is not recognized as a way to make a carbon nanotube. It is not seen how the figures 1, 7 show a nanotube structure. Carbon nanotubes are made by high energy catalytic processes such as laser ablation and arc-discharge.

Applicant's arguments filed 3/3/04 have been fully considered but they are not persuasive.

Lee suggests using inorganic materials to make carbon in the pores, and cites an article which has done this. Thus, using the present templates is suggested. There is no evidence that nanotubes are made, and incredible allegations require a commensurate high burden of proof.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.



Stuart Hendrickson
examiner Art Unit 1754